



ATTORNEY'S DOCKET NUMBER: 2002834-0022

#14  
17P

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	Sosin <i>et al.</i>	Examiner:	Ewoldt, G.
Serial No.:	09/290,029	Group Art Unit:	1644
Filed:	April 9, 1999		
For:	SYSTEM FOR CONTROLLING IMMUNE SYSTEM RESPONSE TO ANTIGEN		

Box: AF  
Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

**PETITION FOR WITHDRAWAL OF FINALITY**

A Final Office Action was issued in the above-referenced case on December 6, 2000 (Paper Number 11). Upon review of that Action, Applicant has determined that the finality of the Action is inappropriate. Applicant respectfully requests withdrawal of the finality of the Office Action and issuance of a new Office Action addressing the patentability of all of the pending claims. Specifically, Applicant requests a discussion of claims 50-55, 60, 63-66, 79-81, 84-91, 94-97, 102-104, and 108. The Examiner has withdrawn these claims from consideration on the ground that Applicant amended the claims in response to the previous Office Action in such a way that the amended claims are directed to non-elected subject matter. Applicant respectfully disagrees.

The amendment to which the Examiner refers changed the *preamble* of the claim from "A method of modulating an immune system response . . ." to "A method of modulating presentation of an antigen . . .". The steps of the recited method were unchanged. Applicant therefore submits that the scope of the original claim and that of the amended claim is identical. No matter that was not encompassed in the original claim is encompassed by the amended claim, and no matter that was encompassed by the original claim is excluded from the amended claim. Accordingly, the new claim and the amended claim are directed to the *identical* invention. In

order to be directed to non-elected subject matter, the revised claim would have to be *patentably distinct* from the original claim. Clearly, this is not the case.

Since the Examiner has chosen not to address all the elected claims in the present case, Applicant is at a loss to provide any further argumentation or amendment that might further prosecution of the present case toward allowance. Applicant respectfully requests withdrawal of the finality of the December 6, 200 Office Action, and issuance of a new Action in which claims 50-55, 60, 63-33, 79-81, 84-91, 94-97, 102-104, and 108 are substantively addressed.

Please charge any fees that may be associated with this matter, or credit any overpayments, to our Deposit Account Number 03-1721.

Respectfully submitted,



C. Hunter Baker, M.D., Ph.D.  
Reg. No. 46,533

Choate, Hall & Stewart  
Exchange Place  
53 State Street  
Boston, MA 02109  
Tel: (617) 248-5000  
Dated: April 5, 2001

#3238897\_1.DOC

I hereby certify that this correspondence is being  
deposited with the United States Postal Service as first  
class mail in an envelope addressed to: Assistant  
Commissioner For Patents, Washington, D.C. 20231  
on April 5, 2001  
Karen E. Leaps